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Angela C. Snyder
Office of the Deputy Administrator, Poultry Programs
AMS-USDA
1400 Independence Avenue SW
STOP 0256
Washington, DC 20250-0256

RE: Docket Number PY-02-006, 68 FR 22690, April 26, 2004
"Proposed Rule to Exempt Organic Producers and Marketers from Assessment by
Research and Promotion Programs".

We are a California organic dairy producer and processor. Straus Family Creamery processes organic milk from three organic dairies including our own. We produce and process only organic dairy products.

Straus Family Creamery generally supports the submitted by CROPP Cooperative, doing business as Organic Valley, and Horizon Organic Dairy.

Our comments essentially seek to clarify the rule so that it follows the intent of Congress to exempt organic farmers from assessments by research and promotion programs.

1. Congress intended that to qualify for the exemption, a producer must produce all organic products. However, the phrase "produces and markets solely 100 percent organic products" will inadvertently omit organic dairy farms unless wording is altered. All organic dairy farms keep their female calves, but sell their male calves on the conventional market. The organic farmer's exempt status from the dairy promotion assessment should be maintained, because the covered commodity is dairy, not beef. This interpretation is consistent with the traditional "commodity by commodity" treatment of commodity promotion programs, thereby fulfilling congressional intent.
2. The language in the rule "a producer who produces and markets solely 100 percent organic products and does not produce any conventional or non-organic products," leaves open the possibility that the exemption might not be available if a farmer is forced, in an isolated instance, to sell a commodity on the conventional market. For example, if a dairy farmer is forced to give an animal antibiotic treatment, for humane purposes (required by the Organic Food Production Act), the farmer must then sell the animal conventionally. This should not make the farmer lose the exemption. Nor should the farmer lose the exemption if, for reasons beyond the farmer's control, the product is sold conventionally, either by a third party down the supply stream, or from the farm because of a lack of an adequate organic market. If the farm maintains its organic

certification, there is no reason the farmer should not be exempt from the assessments on the commodity produced, and be able to concentrate his marketing efforts and marketing dollars in the organic marketplace, as Congress intended.

3. Congress intended certified organic fluid milk handlers/processors who process only organic products to be exempt from assessments imposed under the Fluid Milk Promotion Order, 7 C.F.R. Part 1160. However by using the language that the person/company seeking the exemption markets "solely 100% organic products", it inadvertently makes processors who market "organic" products as under 7 C.F.R. § 205.301(b)(labeling 95% organic) ineligible for the exemption.

We believe this rule with the clarifications suggested above will honor the commitment Congress made to organic farmers.

Sincerely,

Albert Straus
President
Straus Family Creamery